

**UNITED STATES GOVERNMENT
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 16**

STERICYCLE, INCORPORATED

Employer

Cedar Hill, Texas

and

Case No. 16-RC-10251

**GENERAL DRIVERS, WAREHOUSEMEN,
AND HELPERS, LOCAL UNION 745, affiliated with
INTERNATIONAL BROTHERHOOD OF
TEAMSTERS**

Petitioner

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, herein referred to as the Act, a hearing was held before a hearing officer of the National Labor Relations Board, herein referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding, the undersigned finds:1/

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employers are engaged in commerce within the meaning of the Act and will effectuate the purposes of the Act to assert jurisdiction herein.2/
3. The labor organization involved claims to represent certain employees of the Employers.3/

4. A question affecting commerce exists concerning the representation of certain employees of the Employers within the meaning of the Section 9(c)(1) and Section 2(6) and (7) of the Act.4/
5. The following employees of the Employers constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:
 - Included:** All drivers, dispatchers, and customer service representatives in Cedar Hill, Texas.
 - Excluded:** All other employees, including all drivers in Tulsa and Oklahoma City, Oklahoma, and all clericals, administrative employees, guards and supervisors as defined by the Act.

DIRECTION OF ELECTION 5/

An election by secret ballot shall be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the notice of election to issue subsequently, subject to the Board's Rules and Regulations. In this regard, Section 103.20(c) of the Board's Rules and Regulations, as interpreted by the Board, requires employers to notify the Regional Director at least five full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. Failure to do so estops employers from filing objections based on nonposting of the election notice. Eligible to vote are those in the unit who are employed during the payroll period ending immediately preceding the date of the Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained the status as such during the eligibility period and their replacements. Those in the military services of the United States Government may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the

designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by General Drivers, Warehousemen and Helpers Local Union 745, affiliated with International Brotherhood of Teamsters.

LIST OF VOTERS

In order to ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties in the election should have access to a list containing the **full names and addresses** of all eligible voters which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Co.*, 394 U.S. 759 (1969); and *North Macon Health Care Facility*, 315 NLRB 359 (1994). Accordingly, it is hereby directed that within seven (7) days of the date of this Decision, two (2) copies of an election eligibility list containing the names and addresses of all the eligible voters shall be filed by the Employer with undersigned, who shall make the list available to all parties to the election. In order to be timely filed, such list must be received in the NLRB Region 16 Regional Office, 819 Taylor Street, Federal Office Building, Room 8A24, Fort Worth, Texas 76102, on or before September 18, 2000. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

RIGHT TO REQUEST REVIEW

Under the provision of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board,

addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, DC 20570.

This request must be received by the Board in Washington by September 25, 2000.

DATED, this the 11th day of September, 2000 at Fort Worth, Texas.

/s/ Curtis A. Wells

Curtis A. Wells, Regional Director
NLRB Region 16
819 Taylor Street, Room 8A24
Fort Worth, Texas 76102-6178

1. The Employer timely filed a brief, which was duly considered.
2. The parties stipulated that the Employer, Stericycle, Incorporated, is an Illinois corporation engaged in the business of transport and disposal of medical waste in Cedar Hill, Texas. During the past 12 month period the Employer derived gross revenues in excess of \$50,000 from points located outside the State of Texas.
3. The parties stipulated, and I find, the Petitioner is a labor organization within the meaning of Section 2(5) of the Act.
4. Petitioner seeks to represent all drivers working at the Employer's facilities in Cedar Hill, Texas, and Oklahoma City and Tulsa, Oklahoma, and all dispatchers and customer service representatives working in Cedar Hill, Texas. The Employer contends the Oklahoma City and Tulsa drivers do not share a community of interest with the Cedar Hill unit drivers, and therefore, should be excluded from the unit. The parties stipulated to exclude the Employer's Terrell, Texas drivers. Thus, the only issue in this matter is whether the drivers employed at the Employer's Oklahoma City and Tulsa, Oklahoma facilities should be included in the unit. The petitioned-for unit consists of approximately nineteen employees, whereas the unit the Employer urges consists of fourteen employees.

As referenced above, the Employer is engaged in the business of picking up, transporting, and disposing of medical waste from hospitals, doctors' offices, and clinics located in North Texas and Oklahoma. The Employer's Area 2 office is located in Conroe, Texas. Area 2 comprises various districts, including the Cedar Hill facility, which operates within the Cedar Hill district, and the Oklahoma City and Tulsa, Oklahoma facilities, which operate within the Oklahoma district. Area Vice-President David Pritt, District Manager Billy Martin, Facility Manager Jim DeCarlo, District Transportation Manager David Farrar, and clerical, Misty Metcalf, are employed at the Employer's Conroe, Texas office. Vice-President David Pritt oversees operations for the entire Area 2 of the Employer's business. District Manager Billy Martin oversees the district that covers Texas, Oklahoma, Arkansas, Louisiana, and Alabama. Facility Managers Jim DeCarlo and Bob Jackson oversee daily operations. District Transportation Manager David Farrar oversees the collections operations for Martin's district. Finally, Misty Metcalf maintains

all personnel files and serves as an informal resource for employees on benefits and insurance-related issues.

The Employer employs eleven drivers, two dispatchers, two salespersons, one customer service representative, and the transportation supervisor, Tina Johnson, at its Cedar Hill facility. At its Oklahoma City facility the Employer employs three drivers, one sales representative, and one temporary office clerk. The record reflects that in early July, about two to three weeks before the Employer learned of Union activity at the Cedar Hill office, David Pritt approved the creation of a route supervisor for Oklahoma. The creation of this position prior to the Employer's knowledge of any Union activity was undisputed at the hearing. The new route supervisor's duties will be divided between Oklahoma City and Tulsa. This position is presently unoccupied. Finally, the Employer employs two drivers at its Tulsa, Oklahoma facility. In addition to the Cedar Hill, Oklahoma City, and Tulsa, Oklahoma offices, the Employer also has a Terrell, Texas facility, where Jeff Butler, the Facility Manager, works. Butler oversees Johnson's management of the Cedar Hill facility.

The record reflects Employer's salespersons solicit new customers and input customer information into the Employer's computer system. Then, from the computer system, the dispatchers prepare a list of pick-ups according to the date they are needed and submit these route lists to the drivers. In addition, the dispatchers pull the proper barcodes and data sheets that the Employer uses to fulfill state and federal regulations in the tracking of this medical waste. The Texas facilities follow Texas and federal law in the transport and disposal of medical waste, while the Oklahoma drivers follow Oklahoma and federal law. After the driver has received his daily route from the dispatcher, he then locates the point of pick-up, loads the waste onto his truck, affixes a sticker to identify each container of waste and then scans the sticker's barcode into a hand-held tracking device. He then proceeds to his next pick-up point. If a problem arises, such as locating the next pick-up point, he may radio the dispatchers in Cedar Hill or another driver. If a more serious problem occurs, the driver contacts Johnson via radio.

With regard to the Employer's dispatchers, the record reveals there are two dispatchers who work in the Cedar Hill office. They compile the routing list from the salespersons and distribute the routing lists to the Cedar Hill and Oklahoma drivers. They also maintain radio contact with the drivers when the drivers call in with questions. If the dispatcher cannot answer the drivers' questions, the dispatcher will refer it to Johnson. At the end of the day, the drivers in Cedar Hill and Oklahoma provide a route report to the dispatchers. In addition, the record reveals dispatchers order equipment and supplies for the Oklahoma drivers.

The Employer also employs one customer service representative at its Cedar Hill facility. The record reflects that his responsibilities are limited to directing customer complaints to the dispatchers and filling in for a dispatcher who is sick or on vacation.

The general rule for employers with multiple locations is that a single-plant unit is presumptively appropriate, unless the employees at the plant have been merged into a

more comprehensive unit by bargaining history, or the plant has been so integrated with the employees in another plant as to cause their single-plant unit to lose its separate identity. *D&L Transportation, Inc.*, 324 NLRB 160, 160 (1997); *J&L Plate, Inc.*, 310 NLRB 429, 429 (1993); *Bowie Hall Trucking*, 290 NLRB 41, 42 (1988); *Dixie Belle Mills*, 139 NLRB 629, 631 (1962). To determine whether the presumption has been rebutted, the Board looks at such factors as centralized control over daily operations and labor relations; extent of autonomy in the local manager to handle the facility's day-to-day ordinary operations and to supervise the employees' day-to-day work; similarity of skills, functions, and working conditions; extent of employee interchange; geographic proximity; and bargaining history, if any. *D&L Transportation, supra*. The presumption is in favor of single facility units, and the burden is on the party opposing that unit to present evidence to rebut the presumption. *J & L Plate Inc.*, 310 NLRB 429 (1993); *Red Lobster*, 300 NLRB 908, 910-911 (1990).

In the instant case, the record reveals the Employer maintains centralized control in Conroe over labor relations at its Cedar Hill and Oklahoma facilities. First, the office in Conroe, Texas oversees most hiring, firing and disciplinary decisions. Vice-President David Pritt and District Manager Billy Martin make these decisions together. Butler and Johnson have authority to recommend hire, termination or dismissal, but such decisions ultimately rest with the vice-president and district manager. Also, decisions to add employees to any location or create positions are made by Pritt. Butler then gives approval to Johnson to draft a hiring proposal, compose an ad for the newspaper, and set up interviews. The record reflects one occasion when Johnson terminated an employee who worked in the Oklahoma City office. There is no record evidence on when this occurred. Finally, the record also reveals some evidence of the Employer's centralized control over daily operations at its Cedar Hill and Oklahoma locations. All payroll lists are compiled at the Cedar Hill facility and forwarded to Houston for payment. Moreover, the Cedar Hill locations and Oklahoma locations use the same radio system, which is connected to the dispatchers in Cedar Hill.

Although these factors reveal the Employer's centralized control over labor relations and daily operations at the Cedar Hill and Oklahoma locations, the Board has emphasized that the degree of employee interchange and geographic separation are the most critical elements in determining whether the single-facility presumption has been rebutted. *Esco Corp.*, 298 NLRB 837 (1990), *See also First Security Services, Corp.*, 329 NLRB No. 25 (1999). With regard to the degree of interchange or interaction between the Cedar Hill and Oklahoma drivers, the record reveals that they have little contact. First, they have different routes that do not overlap. Second, they cover different geographic areas. The Cedar Hill drivers share their route with the Terrell drivers and cover a region of Texas from Longview to Palestine to Paris, Texas. These drivers also cover routes in Sherman, Denison, Wichita Falls, and the Dallas/Fort Worth metroplex. In contrast, the Oklahoma City drivers cover the city and surrounding suburbs, and the Tulsa drivers cover the city, surrounding suburbs, and parts of Kansas and Arkansas. Third, there have been no permanent transfers between the Texas and Oklahoma facilities. The record reveals that two drivers temporarily transferred from Cedar Hill to the Oklahoma facilities on one occasion, shortly after the Employer purchased the Oklahoma facilities from BFI in

November, 1999. These two drivers trained the drivers in Tulsa and Oklahoma City, and then returned to Cedar Hill after the Employer hired drivers to take the Oklahoma routes. The record does not show how long these Cedar Hill drivers worked at the Oklahoma facilities. Fourth, in the case of company-sponsored events, the Oklahoma drivers and Texas drivers do not have contact. For example, the Employer had a barbecue for the Texas drivers, but the Oklahoma drivers were not invited because it was too far, and there were not enough employees to cover their routes. The record further reveals only one occasion when Oklahoma drivers drove to the Cedar Hill facility, and this was due to an emergency. The Employer could not get waste tubs for the drivers in Oklahoma, so the drivers had to come to Cedar Hill to get them.

Additionally, there is no record evidence on whether the Cedar Hill and Oklahoma drivers have radio contact with each other. The record does reflect that a driver may radio another driver who works at the same location for generalized route information. The drivers in each office also drive a different route, and, although they perform the same work in both the Cedar Hill and Oklahoma facilities, there is no evidence of interaction among the drivers in the performance of their duties.

The record reveals further differences between the Cedar Hill and Oklahoma locations. With respect to the issue of functional integration, the record reflects the Cedar Hill drivers dump the medical waste for incineration at the Employer's Conroe, Texas facility or its Terrell, Texas facility. The Oklahoma drivers dispose of the medical waste at an incinerator facility in Stroud, Oklahoma.

With regard to geographic proximity, the record reflects the Employer's Cedar Hill facility is approximately 230 miles from its Oklahoma City facility, and 300 miles from its Tulsa, Oklahoma facility. In addition, the parties stipulated to no prior bargaining unit history at any of its locations.

On the issue of the local manager's autonomy, the record reveals that although there is presently some common supervision, this will end when the Oklahoma routing supervisor is hired. Presently, the Cedar Hill and Oklahoma City drivers are supervised by Johnson. Butler assists with the supervision of the Tulsa office. However, this arrangement appears to be temporary since the Employer is seeking to fill the Oklahoma routing supervisor position it created in mid-July. Johnson's and Butler's supervision consists of fielding questions from the drivers, dispatchers, customer service representatives, and salespersons, granting vacation time, and writing up employees for being tardy. In addition, Johnson handles disciplinary issues at Cedar Hill and Oklahoma City, while Butler covers Tulsa, Oklahoma and Terrell, Texas, his regular office. Butler and Johnson also conduct safety training in both the Cedar Hill and Oklahoma locations; the record reveals that for the Oklahoma offices, this duty will be the responsibility of the new routing supervisor.

Regarding the similarity of skills, functions, and working conditions between the Employer's Texas drivers and Oklahoma drivers, the record reveals that all the drivers perform the same function of picking up and disposing medical waste. The record

reveals further similarities in terms of pay, hours, and benefits but slight differences between the average weekly hours worked between the Cedar Hill and Oklahoma drivers. In Cedar Hill, the average driver's work week consists of 45 to 50 hours. In Oklahoma City, it averages 43 to 45 hours a week, and in Tulsa, it is 60 to 65 hours a week. Additionally, there are slight differences in overtime and work hours between the Employer's Texas and Oklahoma drivers.

The Cedar Hill and Oklahoma drivers' schedules vary in that there are two Saturday routes in Cedar Hill, while in Oklahoma, there are no Saturday routes. Consequently, the Oklahoma drivers perform yard maintenance on Saturdays. In Cedar Hill, the drivers perform yard maintenance daily after completing their route. Also, the Cedar Hill office has a swing driver to handle the Saturday route. There is no such position in Oklahoma. Finally, the Cedar Hill drivers do not have to schedule their own truck maintenance while the Oklahoma drivers must schedule their trucks' maintenance themselves. However, in most instances they take their trucks to Ideal Lease, where the Employer has a maintenance contract.

Regarding the customer service representative's working conditions, the record reflects he is paid \$9 per hour, receives the same benefits as the Cedar Hill drivers, and is supervised by Johnson.

The record reveals the Employer pays its dispatchers \$10.50 per hour and provides them with the same benefits and supervision as drivers.

Based on the foregoing, I find that the Petitioner has not met its burden in overcoming the presumption of the appropriateness of a single-location unit. There have been no permanent transfers and only one temporary transfer of two drivers between the Employer's Texas and Oklahoma facilities. The Employer's Texas and Oklahoma drivers have no contact in the performance of their jobs. They are trained separately, and while they share some similarities in wages and working conditions, there are also substantial differences. Moreover, there is minimal contact, consisting of a short radio call and a daily written report, between the Employer's Texas dispatchers and Oklahoma drivers. In addition, there is no prior history of bargaining among the proposed unit employees. Finally, the geographic separation of the three locations, while by itself not determinative in view of the nature of the Employer's operation, gains significance when, as here, there are other persuasive factors that support a single-facility unit. ***Bowie Hall Trucking***, 290 NLRB 41, 43 (1988). Accordingly, the Oklahoma City drivers and Tulsa, Oklahoma drivers will be excluded from the unit.

Regarding inclusion of the dispatchers and customer service representative in the Cedar Hill unit, I find they are functionally integrated with the Employer's Cedar Hill operation and thus properly included in the petitioned-for unit. They share common supervision, work in the same office, and have the same benefits as the Cedar Hill drivers. An appropriate unit determination does not require the petitioned-for unit to be the only appropriate unit or the most appropriate unit; all that is required is that the unit be appropriate to ensure to employees in each case full freedom to exercise the rights guaranteed by the Act. ***Overnite Transportation Co.***, 322 NLRB 723 (1996).

5. In accordance with Section 102.67 of the Board's Rules and Regulations, as amended, all parties are specifically advised that the Regional Director will conduct the election when scheduled, even if a request for review is filed, unless the Board expressly directs otherwise.

440-6750-3300
440-6750-3325